



DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

5720
Ser BPMOW.sa/278
August 9, 2018

Mr. Jeff Ruch
Public Employees for
Environmental Responsibility
962 Wayne Avenue Suite 610
Silver Spring, MD 20910

Dear Mr. Ruch:

This responds to your Freedom of Information Act (FOIA) request of June 5, 2018, in which you seek records related to Hunters Point Naval Shipyard (HPNS). Your request was received by this office on June 8, 2018 and assigned file number DON-NAVY-2018-008290.

Your specific requests and the Department of Navy's responses are provided below, seriatim, along with associated webpage links:

1. The U.S. Navy response to, or communications concerning, the most recent EPA estimates of what fraction, percent, and/or number of samples and/or sample units at the Hunters Point Shipyard Superfund site are suspect, questionable, unreliable, and/or potentially fraudulent or otherwise inaccurate, including but not limited to:
 - The EPA reevaluation of soil samples at Parcels B and G dated December 27, 2017; and
 - The EPA reevaluation of soil samples at Parcels D-2, UC-1, UC-2, and UC-3 dated March 30, 2018

Navy Response:

On May 2, 2018 the Navy published the following statement regarding the comparison of Navy and EPA estimates of potentially fraudulent or otherwise inaccurate Tetra Tech EC data on the "Timely Topics" section of the Navy BRAC webpage:

"There is no fundamental disagreement between Navy and EPA regulators. While the analysis and approach and numbers may differ, the cumulative assessments have led us to evaluate the most efficient retesting approach to ensure the property is safe for transfer to the local community.

The Navy and regulatory agencies agree that all Tetra Tech radiological work areas need to be retested. Percentages reported by the Navy in our technical evaluations represent areas where data has indications of potential falsification only. The percentages reported in the December 27, 2017 EPA memo indicate areas of potential falsification and an evaluation of other factors including quality control. We are committed to continuing our cooperative work with both state and federal regulators.

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We look forward to describing the extensive cleanup effort at Hunters Point and encourage participation in our community meetings and bus tours.

https://www.bracpmo.navy.mil/brac_bases/california/former_shipyard_hunters_point/timely_topics.html)

2. Decision documents stemming from or communications following the U.S. Navy's March 2018 "Building Radiation Data Initial Evaluation Report" confirming data manipulation of Tetra Tech EC, Inc. ("Tetra Tech") radiation surveys submitted from 2008 through 2016.

Navy Response:

No decision documents stemming from the March 2018 draft Building Radiation Data Initial Evaluation Report have been generated.

In an effort to generate a comprehensive, credible data set to reassure the community about their safety as well as determine the extent of any remediation activities needed to complete the cleanup of Hunters Point, BRAC PMO issued a draft Parcel G Removal Site Evaluation Work Plan in June, 2018, that is currently available for regulatory agency and public review and comment. This Parcel G specific work plan addresses both soil and building evaluations. BRAC PMO will be generating subsequent work plans for areas that Tetra Tech EC conducted radiological sampling at Hunters Point. These include Parcels B, C, E, D-2, and the three Utility Corridors (UC) UC-1, UC-2, and UC-3 for agency and public review after the Parcel G work plan is finalized. The draft Parcel G Removal Site Evaluation Work Plan can be found at:

https://www.bracpmo.navy.mil/content/dam/bracpmo/california/former_naval_shipyard_hunters_point/pdfs/all_documents/environmental_documents/radiological/Draft%20HPNS%20Parcel%20G%20Work%20Plan_June%202018.pdf)

We have identified six (6) records that are responsive to your request. The Navy is providing hard copies (included). However, certain draft documents and briefing materials that contain or reflect internal advice, recommendations and subjective evaluations pertaining to the internal decision-making process of the Navy are exempt from disclosure under Exemption 5 of FOIA [5 U.S.C 552(b) (5) and have been withheld from release. Release of these records could cause harm to the Navy's deliberations by discouraging the free and frank exchange of opinions or potentially result in public confusion by disclosing information that is not consistent with the outcome of the deliberative process. Although portions of the exempt documents could be considered factual, such information is inextricably intertwined with deliberative material, or fragmented and uninformative, and has therefore been withheld from release.

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3. Records reflecting the current status of Tetra Tech as a Navy consultant or contractor at the Hunters Point Shipyard Superfund site, including whether the Navy is pursuing complaints, sanctions, or repayment from Tetra Tech.

Navy Response:

The Navy is currently conducting contractual evaluations of Tetra Tech EC based on federal contracting requirements. We have identified five (5) letters that are responsive to your request. The Navy is providing hard copies (included).

4. The latest U.S. Navy action to verify or address whistleblower allegations concerning fabrication, data manipulation, and related misconduct by Tetra Tech at Hunters Point.

Navy Response:

As stated in our response to Item #2, the Navy is attempting to generate a comprehensive, credible data set to reassure the community about their safety as well as determine the extent of any remediation activities needed to complete the cleanup of Hunters Point, and to also address whistleblower allegations, BRAC PMO issued a draft Parcel G Removal Site Evaluation Work Plan in June, 2018, that is currently available for regulatory agency and public review and comment. BRAC PMO will be generating subsequent work plans for areas that Tetra Tech EC conducted radiological sampling at Hunters Point. These include Parcels B, C, E, D-2, and the three Utility Corridors (UC) UC-1, UC-2, and UC-3 for agency and public review after the Parcel G work plan is finalized. The draft Parcel G Removal Site Evaluation Work Plan can be found at:

https://www.bracpmo.navy.mil/content/dam/bracpmo/california/former_naval_shipyard_hunters_point/pdfs/all_documents/environmental_documents/radiological/Draft%20HPNS%20Parcel%20G%20Work%20Plan_June%202018.pdf

Fees associated with the processing of your request are waived in this instance.

In view of the above, you may consider this partial denial to be an adverse determination that may be appealed. Since you have created an account in FOIAonline, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

The Department of the Navy
Office of the General Counsel (ATTN: FOIA APPEALS)
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

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Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. For any further assistance and to discuss any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or (703) 697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Further questions regarding the action this office has taken may be directed to Scott Anderson, scott.d.anderson@navy.mil. Please refer to your FOIA case number DON-NAVY-2018-008290 whenever corresponding about this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly A. Ostrowski', written over a horizontal line.

KIMBERLY A. OSTROWSKI
Director

Enclosures: (11)